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**Sixty-third session**
Agenda item 105 (k)
**Appointments to fill vacancies in subsidiary organs and other appointments: appointment of judges of the United Nations Dispute Tribunal**

# Appointment of the full-time and half-time judges of the United Nations Dispute Tribunal

## Memorandum by the Secretary-General

## I. Introduction

1. By its resolution 62/228, entitled "Administration of justice at the United Nations", the General Assembly decided, inter alia, to establish a two-tier formal system of administration of justice, comprising a first instance United Nations Dispute Tribunal and an appellate instance United Nations Appeals Tribunal.

2. In the same resolution, the General Assembly also decided that the judges of the Dispute Tribunal and the Appeals Tribunal shall be appointed by the General Assembly on the recommendation of the Internal Justice Council.

3. The statutes for the Dispute Tribunal and the Appeals Tribunal were adopted by the General Assembly in its resolution 63/253. The two Tribunals will be operational as of 1 July 2009.

4. It is therefore necessary for the General Assembly, during its sixty-third session, to appoint three full-time and two half-time judges to the Dispute Tribunal. The term of office for these judges will be for seven years, beginning on 1 July 2009, subject to the transitional measure set out in article 4(4) of the statute of the United Nations Dispute Tribunal.

## II. Internal Justice Council

5. The Internal Justice Council reviewed applications in July 2008 and interviewed shortlisted candidates in September 2008. Before the interviews were held, referees were contacted and written references obtained from two referees for each candidate. Candidates were required to complete a two-hour examination to test their writing and reasoning abilities, which was followed by an interview lasting

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30 to 45 minutes. With the candidates' permission, the Council subsequently approached the relevant domestic bar associations and the International Bar Association to request confirmation of the integrity of the candidates. Candidates for the United Nations Dispute Tribunal were requested to express their preferences for the locations of the Tribunal and for full-time or part-time appointment. These preferences were taken into account when the Council prepared its recommendations. In its report to the General Assembly (A/63/489), the Council provided the names, by position, location and Tribunal, of candidates it considered suitable for election to the Dispute Tribunal and the Appeals Tribunal.

6. The candidates recommended by the Council for full-time appointment to each location of the Dispute Tribunal are as follows:

- *Geneva*
  Mr. Jean-François Cousin (France)
  Mr. Thomas Laker (Germany)
- *Nairobi*
  Mr. Vinod Boolell (Mauritius)
  Ms. Nkemdilim Amelia Izuako (Nigeria)
- New *York*
  Mr. Michael Adams (Australia)
  Ms. Memooda Ebrahim-Carstens (Botswana)

7. The candidates recommended by the Council for half-time appointment to the United Nations Dispute Tribunal are as follows:

- Mr. Rodney Madgwick (Australia)
- Mr. Goolam Hoosen Kader Meeran (United Kingdom of Great Britain and Northern Ireland)
- Ms. Coral Shaw (New Zealand)
- Mr. Mark Sutton (United Kingdom of Great Britain and Northern Ireland)

8. The candidates' curricula vitae are provided in the above-mentioned report of the Internal Justice Council.

## III. Procedure in the General Assembly

9. The appointment of the full-time and half-time judges of the United Nations Dispute Tribunal will be made in accordance with the following:

(a) The statute of the Dispute Tribunal;

(b) The rules of procedure of the General Assembly;

(c) The recommendations of the Internal Justice Council as set out in its report to the General Assembly (A/63/489).

10. According to article 4(1) of its statute, the Dispute Tribunal shall be composed of three full-time judges and two half-time judges. Article 4(2) states that, "The judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with General Assembly resolution 62/228. No two judges shall be of the same nationality. Due regard shall be given to

geographical distribution and gender balance". In order to be eligible for appointment, article 4(3) requires that a person shall be of high moral character and possess at least 10 years of judicial experience in the field of administrative law, or the equivalent within one or more national jurisdictions.

11. Article 4(4) of the statute of the Dispute Tribunal provides that, "A judge of the Dispute Tribunal shall be appointed for one non-renewable term of seven years. As a transitional measure, two of the judges (one full-time judge and one half-time judge) initially appointed, to be determined by drawing of lots, shall serve three years and may be reappointed to the same Dispute Tribunal for a further non-renewable term of seven years. A current or former judge of the Appeals Tribunal shall not be eligible to serve in the Dispute Tribunal".

12. It is proposed that the General Assembly proceed to appoint the full-time and half-time judges of the Dispute Tribunal by way of an election, bearing in mind paragraph 58 of General Assembly resolution 63/253, in which the Assembly invited, "Member States when electing judges to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal to take due consideration of geographical distribution and gender balance". Only those candidates whose names appear on the ballot papers are eligible for election. The electors in the General Assembly will indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. Each elector may vote for not more than one candidate for full-time appointment to each location of the Dispute Tribunal and for not more than two candidates for half-time appointment to the Dispute Tribunal.

13. Those candidates who obtain the highest number of votes and a majority of votes in the General Assembly of the members present and voting will be considered as elected and thereby appointed by the Assembly to the Dispute Tribunal.

14. The elections for the full-time seats on the Dispute Tribunal will take place first. Once the full-time judges have been elected, the elections for half-time seats on the Tribunal will proceed.

15. Balloting shall continue in accordance with the rules of procedure until as many candidates as are required for the full-time and half-time seats on the Dispute Tribunal to be filled have obtained, in one or more ballots, a majority of votes of the members present and voting.

16. Once a candidate from a Member State has been elected, other candidates from the same Member State will be barred from standing in any subsequent rounds of balloting for any of the seats of the Dispute Tribunal. In the event that more than one candidate from the same Member State obtain the required majority in the same round of balloting, only the candidate with the highest number of votes shall be declared elected. In the event that more than one candidate from the same Member State obtain, in any round of balloting, the required majority and the same number of votes, the President shall decide between the candidates by the drawing of lots.

## IV. Drawing of lots to determine duration of terms

17. The General Assembly decided, in its resolution 62/228, that judges shall serve only one non-renewable term of seven years on either tribunal, with the exception of two of the initial judges of the Dispute Tribunal and three of the initial judges of the

Appeals Tribunal, to be determined by drawing of lots, who shall serve three years and may consequently apply to the same Tribunal for a non-renewable term of seven years.

18. The drawing of lots will be conducted immediately after the election of the judges. The names of the three full-time and two half-time judges elected to the Dispute Tribunal will be placed in two boxes, from which the President of the General Assembly will draw one name from each box. One full-time and one half-time judge will serve for three years on the Dispute Tribunal in accordance with article 4(4) of the Statute of the Tribunal.

## V. Appointment of ad litem judges

19. In addition, the General Assembly decided, in its resolution 63/253, that three ad litem judges shall be appointed by the Assembly to the Dispute Tribunal for a period of one year, as from 1 July 2009, and shall have all the powers conferred on the permanent judges of the Tribunal.

20. The election of the ad litem judges of the Dispute Tribunal will take place separately, subsequent to the election and appointment of the full-time and half-time judges of the Tribunal and the judges of the Appeals Tribunal. The Secretary-General will submit a separate memorandum on the election and appointment of the ad litem judges as soon as a list of candidates recommended by the Internal Justice Council for these positions is provided.

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Agenda item 105 (l)
**Appointments to fill vacancies in subsidiary organs and other appointments: appointment of the judges of the United Nations Appeals Tribunal**

# Appointment of the judges of the United Nations Appeals Tribunal

## Memorandum by the Secretary-General

## I. Introduction

1. By its resolution 62/228, entitled "Administration of justice at the United Nations", the General Assembly decided, inter alia, to establish a two-tier formal system of administration of justice, comprising a first instance United Nations Dispute Tribunal and an appellate instance United Nations Appeals Tribunal.

2. In the same resolution, the General Assembly also decided that the judges of the Dispute Tribunal and the Appeals Tribunal shall be appointed by the General Assembly on the recommendation of the Internal Justice Council.

3. The Statutes for the Dispute Tribunal and the Appeals Tribunal were adopted by the General Assembly in its resolution 63/253. The two Tribunals will be operational as of 1 July 2009.

4. It is therefore necessary for the General Assembly, during its sixty-third session, to appoint seven judges to the Appeals Tribunal. The term of office for these judges will be for seven years, beginning on 1 July 2009, subject to the transitional measure set out in article 3(4) of the statute of the Appeals Tribunal.

## II. Internal Justice Council

5. The Internal Justice Council reviewed applications in July 2008 and interviewed short-listed candidates in September 2008. Before the interviews were held, referees were contacted and written references obtained from two referees for each candidate. Candidates were required to complete a two-hour examination to test their writing and reasoning abilities, which was followed by an interview lasting 30 to 45 minutes. With the candidates' permission, the Council subsequently approached the relevant domestic bar associations and the International Bar

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Association to request confirmation of the integrity of the candidates. In its report to the General Assembly (A/63/489), the Council provided the names, by position, location and Tribunal, of candidates it considered suitable for election to the Dispute Tribunal and the Appeals Tribunal.

6. The candidates recommended by the Council for appointment to the Appeals Tribunal are as follows:

- Ms. Sophia Adinyira (Ghana)
- Mr. Vinod Boolell (Mauritius)
- Ms. Rose Boyko (Canada)
- Mr. Jean Courtial (France)
- Ms. Mary Faherty (Ireland)
- Mr. Kamaljit Singh Garewal (India)
- Ms. Marilyn Kaman (United States of America)
- Mr. Michael Kirby (Australia)
- Mr. Roy Lewis (United Kingdom of Great Britain and Northern Ireland)
- Mr. Mark P. Painter (United States of America)
- Mr. Tudor Pantiru (Republic of Moldova/Romania)
- Mr. Luis Maria Simón (Uruguay)
- Mr. Brian Tamberlin (Australia)
- Mr. Virgilijus Valančius (Lithuania)
- Ms. Inés Weinberg de Roca (Argentina)

7. The candidates' curricula vitae are provided in the above-mentioned report of the Internal Justice Council.

## III. Procedure in the General Assembly

8. The appointment of the judges of the United Nations Appeals Tribunal will be made in accordance with the following:

(a) The statute of the Appeals Tribunal;

(b) The rules of procedure of the General Assembly;

(c) The recommendations of the Internal Justice Council as set out in its report to the General Assembly (A/63/489).

9. According to article 3(1) of its statute, the Appeals Tribunal shall be composed of seven judges. Article 3(2) states that, "The judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with General Assembly resolution 62/228. No two judges shall be of the same nationality. Due regard shall be given to geographical distribution and gender balance". In order to be eligible for appointment as a judge, article 3(3) requires that a person shall be of high moral character and possess at least 15 years of judicial

experience in the field of administrative law, or the equivalent within one or more national jurisdictions.

10. Article 3(4) of the statute of the Appeals Tribunal provides that, "[a] judge of the Appeals Tribunal shall be appointed for one non-renewable term of seven years. As a transitional measure, three of the judges initially appointed, to be determined by drawing of lots, shall serve three years and may be reappointed to the same Appeals Tribunal for a further non-renewable term of seven years. A current or former judge of the Dispute Tribunal shall not be eligible to serve in the Appeals Tribunal".

11. It is proposed that the General Assembly proceed to appoint the judges of the Appeals Tribunal by way of an election, bearing in mind paragraph 58 of General Assembly resolution 63/253, in which the Assembly invited "Member States when electing judges to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal to take due consideration of geographical distribution and gender balance". Only those candidates whose names appear on the ballot papers are eligible for election. The electors in the General Assembly will indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. Each elector may vote for not more than seven candidates.

12. Those candidates who obtain the highest number of votes and a majority of votes in the General Assembly of the members present and voting will be considered as elected and thereby appointed by the Assembly to the Appeals Tribunal.

13. Balloting shall continue in accordance with the rules of procedure until as many candidates as are required for the seats on the Appeals Tribunal to be filled have obtained, in one or more ballots, a majority of votes of the members present and voting.

14. Once a candidate from a Member State has been elected, other candidates from the same Member State will be barred from standing in any subsequent rounds of balloting for any of the seats of the Appeals Tribunal. In the event that more than one candidate from the same Member State obtain the required majority in the same round of balloting, only the candidate with the highest number of votes shall be declared elected. In the event that more than one candidate from the same Member State obtain, in any round of balloting, the required majority and the same number of votes, the President shall decide between the candidates by the drawing of lots.

## IV. Drawing of lots to determine duration of terms

15. The General Assembly decided, in its resolution 62/228, that judges shall serve only one non-renewable term of seven years on either tribunal, with the exception of two of the initial judges of the Dispute Tribunal and three of the initial judges of the Appeals Tribunal, to be determined by drawing of lots, who shall serve three years and may consequently apply to the same Tribunal for a non-renewable term of seven years.

16. The drawing of lots will be conducted immediately after the election of the judges. The names of the seven judges elected to the Appeals Tribunal will be placed in a box, from which the President of the General Assembly will draw three names. These three judges will serve for three years on the Appeals Tribunal in accordance with article 3(4) of the statute of the Tribunal.